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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,655	09/17/2003	Toshiyuki Akasaka	03557/LH	4631
1933	7590	03/09/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 767 THIRD AVENUE 25TH FLOOR NEW YORK, NY 10017-2023			LESLIE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

**Office Action Summary**

Application No.

10/664,655

Applicant(s)

AKASAKA ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/17/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Glasner.

Glasner teaches a radial hydraulic machine having a pintle (20) having a high pressure port (45), a low pressure port (46), and port passages (47, 50), a cylinder block (22), a cylinder bore section including a plurality of cylinders, bearings (26, 30, 73) supporting the cylinder block arranged at both sides of the cylinder bore section, and cancel ports (55) for balancing with a radial force from the high pressure port. Wherein the cancel ports are formed at both side regions of the low pressure port along a circumferential direction of the pintle in a shape of a line of a narrow slit, ports (53) for low pressure each in a shape of a line of a narrow slit are formed at both side regions of the high pressure port, there are a plurality of rows of cylinders in the cylinder bore section, and the high pressure port in each row is evenly placed.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Eickmann.

Eickmann teaches a radial hydraulic machine having a pintle (3; 13) having a high pressure port (1; 11, 31), a low pressure port (51; 21, 41), and port passages (15, 16, 17, 18), a cylinder block (4; 14), a cylinder bore section including a plurality of cylinders, bearings (7, 8;

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57, 58, 67, 68) supporting the cylinder block arranged at both sides of the cylinder bore section, and cancel ports (2; 12, 32) for balancing with a radial force from the high pressure port.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eickmann in view of Henrichsen.

Eickmann teaches a radial hydraulic machine as described above with respect to claim 1, but does not explicitly teach that the cancel ports are formed at both side regions of the low pressure port (Column 3, Lines 51-62). Henrichsen teaches a radial hydraulic machine having balance ports formed at both side regions of pressure ports. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Eickmann by having the cancel ports formed at both side regions of the low pressure port as taught by Henrichsen for the purpose of balancing radial forces of pressure fluid acting on the pintle.

In further regard to claims 3-8, Eickmann as modified in claim 2 above, further teaches that ports for low pressure each in a shape of a line of a narrow slit are formed at both side regions of the high pressure port, there are a plurality of rows of cylinders in the cylinder bore section, and the high pressure port in each row is evenly placed.

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***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
March 3, 2005

  
Michael Leslie  
Patent Examiner  
AU 3745

  
EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700  
3/4/05